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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LEE, DIANE I

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,733

Applicant(s)

SCHLIEFFERS ET AL.

Examiner

D. I. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed 02 July 2004. Claims 1-13 have been canceled; claims 14 and 21 have been amended; and claims 35-38 have been newly added. Currently, claims 14-38 are pending in this application.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 June 2003 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner

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to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21-24, 28-29, and 32 are remain rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti et al. [US 5,335,170-referred as Petteruti] in view of what was well known in the art, as exemplified by Grime et al. [US 5,236,129-referred as Grime] and Sjostrand et al. [US 3,019,673-referred as Sjostrand].

Re claim 21: Petteruti disclose the hand-held optical device comprising:

a body (i.e., the body is defined by the upper section of the device 50 having a head portion 44 and a master module 10, which mates with the head portion 44 via an interconnector 48) having

a first distal end (i.e., the scanning side of the body),

a proximal end (i.e., toward the master module side 10 and opposite side of the distal end),

and

an optical scanning module (a laser scanner 43) arranged to scan objects in a direction outward from a first distal end, the body including an upper surface having a display 34 mounted thereon (i.e., on the master module) (see figure 2A-2B).

a handle 42 that extends from a bottom surface of the body (see figure 2A). The handle 42 being joined at a selected angle with respect to the body.

Although Pertteruti shows the angular scanner structure (i.e., the handle extends from a bottom surface of the body at the first distal end, see figure 2A),

Pertteruti is silent with respect to the bottom surface of the body rest on a user's hand (i.e., a radial surface of a user's hand) when the user grasps the handle (see figure 2A) and further

Pertteruti does not explicitly state that the handle, which extends from a bottom surface of the body at the distal end, increases a viewing angle of the display.

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It is well-known to one of ordinary skill in the art that when user operates the a gun-shaped housing device with a body and a handle that extends from a bottom surface of the body in angle, the bottom surface of the body would rest on a user's hand and further provides a greater maneuvering movement of device when user grabs the handle.

When reviewing the gun-shaped housing or angular structure of the scanner as shown in figure 2A, the Examiner concludes the following factual evidences:

First, Pertteruti shows that the handle being configurable to accommodate the user's hand (see figure 2A). The handle is angled with respect to the body, which the handle is extended a angle from the bottom surface of the body from the first distal end toward the proximal end such that the angular scanner structure allows the radial surface of the user's hand to fit under the bottom surface and provides the additional support surface when the user grabs the handle;

Second, the specific position of the trigger (just below the bottom surface of the body) is actuated by the user's figure (see figure 2A). The fact that the elevation of the user's radial surface of the hand and the elevation of the user's triggering finger are an equal elevation when the user hold the handle portion of the scanner, the radial surface of the user's hand would be adjacently located to he bottom; surface of the body; and

Third, the examiner finds no structure or element within the scanner that prevents the radial surface of the user's hand to support the bottom surface of the body.

Furthermore, the examiner takes an Official Notice that a gun-shaped housing device having a body and a handle that extends from a bottom surface of the body in angle is known that the bottom surface of the body would rest on a user's hand (i.e., a radial surface of a user's hand) when the user grasps the handle, as evidenced by Grime and Sjostrand.

Grime discloses a gun-shaped housing having an upper body and a handle 14, 25 and upper portion of the handle, just below the bottom surface of the body receives the portion of the hand

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between the thumb and the index finger (see figures 1, 3-4). Figure 4 specifically shows the specific position of the trigger (just below the bottom surface of the body) actuated by the user's figure, and wherein the elevation of the user's radial surface of the hand, the elevation of the user's triggering finger and the elevation of the user's thumb are an equal elevation.

Sjostrand discloses also a gun-shape housing. Figures 1-3 shows that when the user holds the handle portion of the scanner, the radial surface of the user's hand would be adjacently located to the bottom surface of the body.

From above evidences, the examiner concluded that Petteruti's the gun-shaped housing or angular structure of the scanner would cause to apply its body weight (i.e., through the proximal end of the body portion) to the user's hand when the user grasps the handle portion of the gun-shaped housing/angular structure of the scanner, and further would also distribute its body weight of the scanning device on the radial surface of a user's hand. Therefore, when the user grasps the handle portion, the user obviously has a greater ability to adjust the viewing angle of the display by maneuvering the proximal end of the bottom surface of the body with the user's wrist (the specific illustration not shown in figure).

Accordingly, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to recognize that the bottom surface of the body would rest on a radial surface of a user's hand, which also would obviously provide a flexibility of maneuvering the scanning device so as to increase a viewing angle of the display.

Re claims 22-24 and 28: Petteruti shows that the handle is integrally molded with the bottom of the body and includes a trigger 46, which activates the scanner (i.e., actuate the reading process). The trigger can be single or dual finger trigger (i.e., the user may apply a single or dual fingers to actuate the trigger) (see figure 2A).

Re claim 29: Petteruti teaches the scanning device having a RF antenna 40 and associated RF electronics 39 to allow wireless RF communication (see col. 2, lines 28+).

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Re claim 32: the body portion having a CCD scanner 90, a controller 98, a LCD display 34, a keyboard 36, and EEPOT 112, wherein the EEPOT is controlled by the input means (i.e., a keyboard 36) to control the output of the charge pump, which in turn controls the contrast of the display 34 under the control of the CPU 98 (see col. 6, lines 30+). This obviously teaches that the CPU provides a display option in the contrast of display and the display is configurable to adapt to a user's preference in the contrast of display based upon whether a user enters the user's preference in the contrast of display through the keyboard.

5. **Claims 14-17, 20, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti et al. [US 5,335,170-referred as Petteruti] in view of Wakatsuki et al. [US 5,023,438-referred as Wakatsuki].** The teachings of Petteruti have been discussed above.

Re claims 14, 20 and 33: Petteruti discloses a hand-held optical device 50 (see figure 2a), comprising:

a body (the upper section of the device 50 having a head portion 44 and the master module 10, which mates with the head portion 44 via an interconnector 48) including an upper surface having a display 34 mounted thereof (see col. 2, lines 16+ and figure 2A) and wherein the display having a horizontal configuration (i.e., figure 1 shows the display is configured such that the information would be displayed horizontally relative to the user's view);

a handle 42 that extends from a bottom surface of the body (see figure 2A) and constructed to cause the scanner's body weight to rest on the user's hand when the user grasps the handle portion, which then also cause to distribute its body weight of the scanning device on the radial surface of a user's hand (i.e., when the user holds the handle, the user's radial surface of the hand would receive the proximal end of the body portion, thus, the body weight of the scanner is applied to the user's radial surface of the hand). Thus, when the user grasps the handle portion, the user obviously has a greater ability to adjust the

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viewing angle of the display by maneuvering the proximal end of the bottom surface of the body with the user's wrist (the specific illustration not shown in figure). Therefore, the handle being configurable to accommodate the user's hand (see figure 2A);

the body portion having a CCD scanner 90, a controller 98, a LCD display 34, a keyboard 36, and EEPOT 112, wherein the EEPOT is controlled by the input means (i.e., a keyboard 36) to control the output of the charge pump, which in turn controls the contrast of the display 34 under the control of the CPU 98 (see col. 6, lines 30+). This obviously teaches that the CPU provides a display option in the contrast of display and the display is configurable to adapt to a user's preference in the contrast of display based upon whether a user enters the user's preference in the contrast of display through the keyboard.

Petteruti does not disclose the display option in accordance with the horizontal configuration to orient display information on the display based at least in part upon whether a user selects a left hand or right hand display option (i.e., the display is configurable to adapt a user's preference, such as a left hand or right hand).

Wakatsuki discloses a hand-held optical scanning device comprising a body including an upper surface having a display 4 mounted thereof; a microcomputer (CPU 13) that provides a display option with horizontal configuration (i.e., when the display device 4 faces the user, the information data is layout horizontally on the display device with respect to the user so that user can read the display data horizontally) to orient display information on the display based at least in part upon whether a user selects a left hand or right hand display option (i.e., device includes the display mode changing switches 6a and 6b provided on the lower side of the casing operated by the user, e.g., the switch 6a for a right-handed person and the switch 6b is for a left-handed person, and the display device 4 is designed to displayed the image on the display device in response to the display mode changing switches 6a and 6b selected by the user) (see col. 5, lines 20+ and figures 7A and 7B). Thus, Wakatsuki teaches that the user's preference of the display data on the display device a horizontal configuration with respect to the user.

It would have been an obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate reconfigurable display device with the user's display option having a left-handed person or a right-handed person in order to reflect the user's preference and/or the position or arrangement of the device with respect to the user. Such modification would have provided Petteruti with a scanning device with a display that provides a correct alignment of the display information for a proper viewing for the user.

Re claims 15: Petteruti shows that the handle is integrally molded with the bottom of the body and includes a trigger 46, which activates the scanner (i.e., actuate the reading process). The trigger can be single or dual finger trigger (i.e., the user may apply a single or dual fingers to actuate the trigger) (see figure 2A).

Re claim 16-17: Petteruti teaches the scanning device having a RF antenna 40 and associated RF electronics 39 to allow wireless RF communication (see col. 2, lines 28+).

6. **Claims 34 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti et al. [US 5,335,170-referred as Petteruti] in view of Williamson et al. [US 5,475,381-Williamson].**
The teachings of Petteruti have been discussed above.

Petteruti teaches the display having a horizontal configuration (i.e., figure 1 shows the display is configured such that the information would be displayed horizontally relative to the user's view) and the CPU provides a display option in the contrast of display and the display is configurable to adapt to a user's preference in the contrast of display based upon whether a user enters the user's preference in the contrast of display through the keyboard.

Petteruti fails to teach the display is a touch sensitive data entry display further fails to teach the display being configurable to provide portrait and landscape views.

Williamson discloses a hand-held device includes a body 10 having a touch screen display 12, 18 52 mounted thereof (see figure 2). The display having a horizontal configuration or a landscape configuration to orient the display information according to user's preference, i.e., the device is operated in either a portrait or landscape orientation either a right or left handed person) (see col. 4, lines 55+).

In view of Williamson's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the display that is touch sensitive data entry display and capable of operated in either a portrait or landscape orientation in the device of Petteruti in order to eliminate the other input device and to provide a correct alignment of the display information for a right or left handed person.

7. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti as modified by Wakatsuki as applied to claim 14 above, and further in view of Williamson. The teachings of Petteruti as modified by Wakatsuki have been discussed above.

Petteruti teaches the display having a horizontal configuration (i.e., figure 1 shows the display is configured such that the information would be displayed horizontally relative to the user's view) and the CPU provides a display option in the contrast of display and the display is configurable to adapt to a user's preference in the contrast of display based upon whether a user enters the user's preference in the contrast of display through the keyboard.

Wakatsuki teaches that the display is configurable to adapt to a user's preference (i.e., the display device 4 can be inverted in the vertical and horizontal direction to adapt to a user's preference, see the abstract and col. 5, lines 57+), Petteruti as modified by Wakatsuki fails to teach the display is a touch sensitive data entry display.

Williamson discloses a hand-held device includes a body 10 having a touch screen display 12, 18 52 mounted thereof (see col. 4, lines 55+ and figure 2).

In view of Williamson's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the display that is touch sensitive data entry display in order to eliminate the other input device and to simplify the operation.

8. **Claims 18-19 are remain rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti as modified by Wakatsuki as applied to claim 14 above, and further in view of Reynolds et al. [US 5,828,052-referred as Reynolds].** The teachings of Petteruti as modified by Wakatsuki have been discussed above.

Re claim 18: Petteruti as modified by Wakatsuki does not disclose the body including a lower housing member and an upper housing member that forms a cover, a resilient sealing member interposed between the lower housing member and cover to form a dust and moisture resistance seal there between.

Reynold discloses a hand-held optical scanning device 20 having a body portion 22, 34 and a handle portion 26 that extends from a bottom surface of the body portion. The handle being joined at a selected angle with respect to the body to cause a proximal end of a bottom surface of the body to rest on a radial surface of a user's hand when the user grasps the handle. Reynolds further teaches that the body portion include a lower housing member 34 and an upper housing member 22 that forms a cover (see figure 3). The lower housing is made of elastomers to protect underlying surfaces of the scanner and extends a distance to cover substantial portion of periphery of the body. The lower housing provides an environmental protection by acting as a gasket between the body and the handle portions thereby inhibiting contaminants from entering into the interior of the scanner (see col. 3, lines 56+). This lower housing that is made of elastomers provides the claimed function of a resilient sealing member interposed between the lower housing member and cover to form a dust and moisture resistance seal there between. The lower housing also provides a bumping surface that protects a user's hand (see col. 3, lines 53+).

In view of Reynold's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the design structure of the body portion in the scanning device of Petteruti as modified by Wakatsuki in order to provide an ergonomic structural of scanning device and to protect the internal components of the scanner from environmental contaminants.

Re claim 19: Due to the fact that Petteruti teaches that the scanning device having a controller 82 which processes the digital signal (see col. 5, lines 57+ and col. 6, lines 4+), it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to recognize that the display device would be a digital display since the controller controls the CCD scanner and the display device thereof.

9. **Claims 25-27, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti in view of Reynolds et al. [US 5,828,052-referred as Reynolds].** The teachings of Petteruti have been discussed above.

Re claims 25-27 and 30: Petteruti does not disclose the body including a lower housing member and an upper housing member that forms a cover, a resilient sealing member interposed between the lower housing member and cover to form a dust and moisture resistance seal there between.

Reynolds discloses a hand-held optical scanning device 20 having a body portion 22, 34 and a handle portion 26 that extends from a bottom surface of the body portion. The handle being joined at a selected angle with respect to the body to cause a proximal end of a bottom surface of the body to rest on a radial surface of a user's hand when the user grasps the handle. Reynolds further teaches that the body portion include a lower housing member 34 and an upper housing member 22 that forms a cover (see figure 3). The lower housing is made of elastomers to protect underlying surfaces of the scanner and extends a distance to cover substantial portion of periphery of the body. The lower housing provides an environmental protection by acting as a gasket between the body and the handle portions thereby

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inhibiting contaminants from entering into the interior of the scanner (see col. 3, lines 56+). This lower housing that is made of elastomers provides the claimed function of a resilient sealing member interposed between the lower housing member and cover to form a dust and moisture resistance seal there between. The lower housing also provides a bumping surface that protects a user's hand (see col. 3, lines 53+).

In view of Reynold's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the design structure of the body portion in the scanning device of Petteruti in order to provide an ergonomic structural of scanning device and to protect the internal components of the scanner from environmental contaminants.

Re claim 31: Due to the fact that Petteruti teaches that the scanning device having a controller 82 which processes the digital signal (see col. 5, lines 57+ and col. 6, lines 4+), it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to recognize that the display device would be a digital display since the controller controls the CCD scanner and the display device thereof.

10. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti in view of Harden et al. [US 5,237,162]. The teachings of Petteruti have been discussed above.

Petteruti fails to teach the bottom surface of the scanning module is a contoured bottom surface.

Harden teaches a hand held scanner including a housing with a body (a top head portion with a scanning module) and a handle portion 2 and wherein the bottom surface of the scanning module is a contoured bottom surface (i.e., figures 1-2 shows that the scanning module of the tope head portion and a bottom handle portion is ergonomically designed curved and contoured so that it provides a contoured hand rest portion therebetween so that it can be fitted to the curve of the human hand (see col. 2, lines 29+).

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It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the contoured bottom surface of the scanner in the teaching of Petteruti in order to provide a hand held device that is easy to hold for long period of time, and to make it easy to grip the scanner (see col. 2, lines 35+).

11. **Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petteruti as modified by Wakatsuki as applied to claim 14 above, and further in view of Harden].** The teachings of Petteruti as modified by Wakatsuki and the teaching of Harden have been discussed above.

See the discussion regarding claim 37 above.

Response to Arguments

12. Applicant's arguments filed 04 September 2003 have been fully considered but they are not persuasive.

13. With respect to the rejection of claims 21-24, 28-29, 31-32, the applicant argued that Petteruti et al. does not each or suggest all limitations recited in the subject claims:

to reject claims in an application under 35 USC §103(a), an examiner must establish a *prima facie* case of obviousness;

further applicant's argument indicated that claim 21 recites in part an arrangement where a bottom surface of a scanner's body rests on a user's hand (i.e., wherever an operator employs applicant's claimed hand held scanner, a portion of the scanner's body extends over the radial surface of the user's hand), where such aspects of applicant's claimed invention are not taught or suggested by Petteruti et al.);

Applicant further stated that other than the Examiner's personal interpretation of figure 2A, the examiner fails to cite a specific reference within Petteruti for such contention, further applicant stated that

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the Examiner's assumption is incorrect let alone improper (see page 12, lines 8+ of the applicant's response).

The examiner respectfully disagrees. In contrary to the Applicants' statement, all the rejections under 35 USC §103(a) in the prior and the instant Office Action established a *prima facie* case of obviousness meeting the three basic criteria of the M.P.E.P. 2143.03 (8th ed. 2001). See the paragraph 5 above. Furthermore, the Examiner recognizes that the obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

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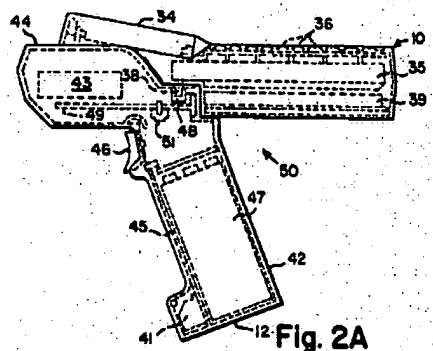


Fig. 2A

As shown above, Figure 2A of Petteruti shows that the upper section of the device 50 having a head portion 44 and the master module 10 combined defines the body. Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir.

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1992). When reviewing the gun-shaped housing or angular structure of the scanner as shown in figure 2A, the Examiner concludes numerous factual evidences:

First, Pertteruti shows that the handle being configurable to accommodate the user's hand (see figure 2A). The handle is angled with respect to the body, which the handle is extended a angle from the bottom surface of the body from the first distal end toward the proximal end such that the angular scanner structure allows the radial surface of the user's hand to fit under the bottom surface and provides the additional support surface when the user grabs the handle;

Second, the specific position of the trigger (just below the bottom surface of the body) is actuated by the user's figure (see figure 2A). The fact that the elevation of the user's radial surface of the hand and the elevation of the user's triggering finger are an equal elevation when the user hold the handle portion of the scanner, the radial surface of the user's hand would be adjacently located to he bottom; surface of the body; and

Third, the examiner finds no structure or element within the scanner that prevents the radial surface of the user's hand to support the bottom surface of the body.

From above evidences, the examiner concluded that Petteruti's the gun-shaped housing or angular structure of the scanner would cause to apply its body weight (i.e., through the proximal end of the body portion) to the user's hand when the user grasps the handle portion of the gun-shaped housing/angular structure of the scanner, and further would also distributes its body weight of the scanning device on the radial surface of a user's hand. Therefore, when the user grasps the handle portion, the user obviously has a greater ability to adjust the viewing angle of the display by maneuvering the proximal end of the bottom surface of the body with the user's wrist (the specific illustration not shown in figure). Accordingly, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to recognize that the bottom surface of the body would rest on a radial surface of a user's hand, which also would obviously provide a flexibility of maneuvering the scanning device so as to increase a viewing

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angle of the display. In this case, the Examiner has clearly established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Thus, during operation, the weight of the scanning device would be supported and maintained by the user's gripping of handle along with the upper surface of the user's hand for the proximal end portion of the body (i.e., the head portion 44 and the master module 10 combined) would extend over the radial surface of the user's hand upon a gripping position of the handle by the user. Thus, the Applicants' argument on this point is not persuasive.

14. Applicant's arguments with respect to claims 14-17, 20, 33-34 have been considered but are moot in view of the new ground(s) of rejection. See the discussion above regarding claims 14-17, 20, 33-34.

15. Applicant's argument with respect to Tracy et al. reference that Tracy reference and the claimed invention were commonly owned at the time the invention was made have been considered but are moot in view of the new ground(s) of rejection. See the discussion regarding the teachings of Williamson above.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Miller et al. [US 5,747,785] and Kumar [US 5,479,001] discloses a hand-held scanner device with a touch sensitive display.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is (571) 272-2399. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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D. I. Lee
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